REMARKS

Upon entry of this amendment, claims 31, 40-43 and 47-51 are pending. Support for amendments to claims 31 and 47 appear in claims 2 and 3 as originally filed. Claims 40-43 were amended to correct improper dependency to a previously canceled claim, and mirror the language provided in independent claim 31 to which they now depend.

No new matter is added by this response. Applicants reserve the right to prosecute amended, cancelled, and withdrawn claims or claims having breadth and scope similar to those as originally filed in this or another application having the same priority date as the present application.

Examiner's rejections:

Examiner did not enter Applicants' previous response to the Final Office Action and amendments filed March 26, 2004, because the amended claims were said to require further consideration and require new searches. Applicant believes that the amendment should have been entered because the subject matter of the amended claims, namely a peptide containing AA1-8 of SEQ ID NO: 1 and a peptide containing AA1-8 of SEQ ID NO: 2, was already searched for originally filed claims 2 and 3, respectively.

Claims 31-43 and previously added claims 47-54 were rejected under 35 U.S.C. §112 ¶1 for lack of enablement. Claims 32-39 and 52-54 have been canceled. Claims 31 and 47 have been amended. Claims 40-43 have been amended to depend from claim 31, and therefore incorporate its subject matter by reference.

In response to the Advisory Action and in order to expedite allowance, the claims have now been amended to require that "said fragment consists of residues 1-8" of either SEQ ID NO:1 or SEQ ID NO:2. Examiner has acknowledged that such a sp fragment was enabled.

On page 5, lines 2-5, the Examiner states:

> The specification teaches that the 8-residue fragment of SP has antimicrobial activity but does not bind to a SP receptor since the fragment lacks the portion of the peptide that confers affinity to the receptor (page 12). The specification is enabled for this peptide fragment.

Accordingly, independent claims 31 and 47 have been amended to require a substance P peptide fragment that " consists of residues 1-8 and" of SEQ ID NO:1 or 2, respectively. Applicants therefore respectfully request that this rejection be withdrawn.

Claims 32 and 33 were rejected under 35 U.S.C. §112 ¶2 for failing to further limit claim 31. Claims rejected due to informalities have either been corrected or canceled. Therefore this rejection is moot and should be withdrawn.

Claims 31-39, 47 and 52-53 were rejected under 35 U.S.C. §102(b) for being anticipated by De Simone *et al.*, (J. Clin. Lab. Anal., 3: 345-349, 1989) ("De Simone") as set forth in a previous Office Action. Claims 32-39 and 52-53 have been cancelled herein.

De Simone only discloses native substance P, which is described as an u[n]decapeptide (11-mer). *See*, De Simone p. 345, Introduction, col. 1, line 1. De Simone does not disclose a fragment thereof. Therefore, these claims are enabled, novel and nonobvious over cited art. Applicants request that all rejections be withdrawn.

CONCLUSION

On the basis of the amendments and remarks, Applicants respectfully submit that the pending claims and specification are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is invited and encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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